

UNITED STATES DISTRICT COURT FOR THE  
DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**

NOV 03 2000

  
CLERK

BEVERLY YOUNG,

Plaintiff,

vs.

MIDLAND CREDIT MANAGEMENT,  
INC.

Defendant.

CIV. 00- 4206

COMPLAINT

I. INTRODUCTION

This is an action for actual and statutory damages brought by an individual consumer for Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. Sec. 1692 et seq. (hereinafter "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

II. JURISDICTION

Jurisdiction of this court arises under 15 U.S.C. Sec. 1692k(d).

III. PARTIES

Plaintiff, Beverly Young, is a natural person residing in Sioux Falls, Minnehaha County, South Dakota.

Defendant, Midland Credit Mangement, Inc., is an Arizona Corporation. Plaintiff states on information and belief that Defendant regularly attempts to collect debts alleged

to be due another.

#### IV. FACTUAL ALLEGATIONS

On or about October 16 through October 21, 2000, agents for the Defendant contacted Plaintiff demanding payment of a debt allegedly due for charges on a Discover card. During one conversations an agent for the Defendant called the Plaintiff derogatory terms, made untrue statements about her, and was abusive. During another call from a different agent of the Defendant the Plaintiff was told that her paycheck was going to be garnished and an employment verification statement was transmitted to the Plaintiff's alleged employer. This was despite the Plaintiff verbally advising the Defendant that they were not to call her at work or home and despite that fact that, to the best of the Plaintiff's knowledge there are no judgements outstanding against her. Plaintiff is further unaware of any such debt existing though she did have a discover card approximately ten (10) years ago with her prior spouse.

Several of the preceding contacts were made repeatedly even after the representatives were asked not to make said contacts. Further, no written note was sent following these contacts as to the amount of the debt or where the judgment was filed although this was requested. Additionally, certain of said contacts were abusive in nature.

Finally the representatives made threats that they did not carry out, and Plaintiff states on information and belief that they had no legal authority to carry out. Specifically, said agents said they were going to garnish her paycheck, requested information as to her bank account numbers, and claimed to have a legal right to garnish her paycheck.

#### V. CAUSE OF ACTION

Plaintiff repeats and realleges and incorporates by reference paragraphs one through four above.

Defendant's violations of the FDCPA include, but are not limited to, the following:

1. The improper acquisition of location information in violation of 15 U.S.C. 1692(b)
2. Communicating with third parties in violation of 15 USC 1692(c)
3. Engaging in harassment or abusive conduct for the purpose of collecting a debt in violation of U.S.C. 1692(d)
4. The use of false or misleading communications for the purpose of collecting a debt in violation of U.S.C. 1692(e)
5. The use of unfair practices in violation of 15 USC 1692(f).
6. Failing to provide proper notice of debt pursuant to USC 1692(g).

As a result of the Defendant's violations of the FDCPA, the Plaintiff suffered actual damages, including emotional distress, and is also entitled to an award of statutory damages, costs and attorney's fees.

WHEREFORE, Plaintiff respectfully requests that judgment be entered against the Defendant for:

- (a) actual damages;
- (b) statutory damages pursuant to 15 U.S.C. Sec. 1692k.
- (c) Costs and reasonable attorney's fees pursuant to 15 U.S.C. Sec. 1692k.
- (d) For such other and further relief as may be just and proper.

A JURY TRIAL IS DEMANDED

Dated: November 3, 2000.




Brett A. Lovrien  
Attorney for Plaintiff  
101 S. Main Ave., Suite 410  
Sioux Falls, South Dakota 57104-6423  
(605) 336-2792

Verification

I hereby certify that the facts contained in the foregoing Complaint are true and correct to the best of my knowledge, information and belief.

  
Beverly Young

Subscribed and sworn to before me this 3<sup>rd</sup> day of November, 2000.

  
Notary Public - South Dakota  
My Commission Expires: 03/13/2003